

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

STEVEN COOPER,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE LIEUTENANT THOMAS JACOBS, POLICE OFFICER JESSICA SCHRELL SHIELD NO. 26482, POLICE DEPARTMENT SERGEANT BRENDAN RYAN, POLICE OFFICER NICHOLAS HORUN, POLICE SERGEANT ADAM KATRINCIC, POLICE SERGEANT PEARL BARNHART, NYPD CAPTAIN DESMOND MORALES, DANIEL O'CONNOR, NEW YORK POLICE OFFICERS JOHN DOES 1-10 the identity of whom is presently unknown, in their individual and official capacities as New York City Police Officers,

Defendants.

-----X

**DECLARATION OF
CHRISTOPHER D. DELUCA
IN SUPPORT OF
DEFENDANTS' MOTION
FOR SUMMARY
JUDGMENT**

17-CV-01517 (RPK) (RLM)

CHRISTOPHER D. DELUCA, an attorney duly admitted to practice in the State of New York and in this Court, declares, pursuant to 28 U.S.C. §1746, under penalty of perjury, that the following is true and correct:

1. I am a Senior Counsel in the Office of Georgia M. Pestana, Acting Corporation Counsel of the City of New York, attorney for defendants City of New York, Sergeant Pearl Barnhart, Police Officer Nicholas Horun, Sergeant Adam Katrincic, Captain Desmond Morales, Sergeant Brendan Ryan, and Police Officer Jessica Schrell. As such, I am familiar with the facts stated below and submit this declaration to place the relevant documents on the record in support of defendants' Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

2. Annexed hereto as Exhibit A is a true and correct copy of the Second Amended Complaint (“SAC”) filed on August 12, 2019 in connection with the instant matter, which sets forth, among other things, a description of the events leading up to, and including, plaintiff’s arrest.

3. Annexed hereto as Exhibit B is a true and correct copy of portions of the October 9, 2020 Deposition Transcript of plaintiff Steven Cooper in connection with the instant matter.

4. Annexed hereto as Exhibit C is a true and correct copy of portions of the November 19, 2020 Deposition Transcript of defendant Police Officer Jessica Schrell in connection with the instant matter.

5. Annexed hereto as Exhibit D is a true and correct copy of portions of the October 23, 2020 Deposition Transcript of defendant Police Officer Nicholas Horun in connection with the instant matter.

6. Annexed hereto as Exhibit E is a true and correct copy of portions of the October 27, 2020 Deposition Transcript of defendant Sergeant Adam Katrincic in connection with the instant matter.

7. Annexed hereto as Exhibit F is a true and correct copy of portions of the October 21, 2020 Deposition Transcript of defendant Captain Desmond Morales in connection with the instant matter.

8. Annexed hereto as Exhibit G is a true and correct copy of portions of the October 23, 2020 Deposition Transcript of defendant Sergeant Pearl Barnhart (Sergeant Pearl Poon) in connection with the instant matter.

9. Annexed hereto as Exhibit H is a true and correct copy of portions of the October 23, 2020 Deposition Transcript of defendant Sergeant Brendan Ryan in connection with the instant matter.

10. Annexed hereto as Exhibit I is a true and correct copy of portions of the October 28, 2020 Deposition Transcript of co-defendant Lieutenant Thomas Jacobs in connection with the instant matter.

11. Annexed hereto as Exhibit J is a true and correct copy of the NYPD Unusual Occurrence Report (“UF-49”) which sets forth, among other things, the NYPD preliminary investigation of the March 20, 2016 incident described in the SAC.

12. Annexed hereto as Exhibit K is a true and correct copy of the NYPD Complaint Report associated with plaintiff’s arrest, dated March 20, 2016, which sets forth, among other things, that plaintiff was arrested on March 20, 2016 in connection with the assault of a complaining victim, co-defendant Thomas Jacobs, from which co-defendant Jacobs complained that plaintiff struck him on the right side of his face causing redness and pain.

13. Annexed hereto as Exhibit L is a true and correct copy of the NYPD Arrest Report associated with plaintiff’s arrest, dated March 20, 2016, which sets forth, among other things, that plaintiff was arrested on March 20, 2016 in connection with the assault of a complaining victim, co-defendant Thomas Jacobs, from which co-defendant Jacobs complained that plaintiff struck him on the right side of his face causing redness and pain. The Arrest Report further sets forth, among other things, that plaintiff was found to be in possession of a quantity of marijuana.

14. Annexed hereto as Exhibit M is a true and correct copy of an excerpt from the 90th Precinct Command Log from March 20, 2016 in connection with the instant matter, which

sets forth, among other things, that plaintiff was arrested for assault and that he had a bruised eye.

15. Annexed as Exhibit N is a true and correct copy of plaintiff's NYPD Aided Card from March 20, 2016 documenting plaintiff's injuries.

16. Annexed as Exhibit O is a true and correct copy of Lieutenant Thomas Jacobs's NYPD Aided Card from March 20, 2016 documenting his injuries.

17. Annexed hereto as Exhibit P is a true and correct copy of the NYPD Property Voucher from the March 20, 2016 arrest of plaintiff in connection with the instant matter, which sets forth, among other things, that marijuana was recovered from plaintiff's person.

18. Annexed hereto as Exhibit Q is a true and correct copy of the New York Post Article from March 23, 2016 titled *House of Pain Rapper Charged in Road-Rage Brawl*.

19. Annexed hereto as Exhibit R is a copy of plaintiff's Notice of Claim received by the New York City Comptroller's Office on or about June 20, 2016, which sets forth, among other things, that the Notice of Claim was only filed against the City of New York and further establishes that any claim for libel and slander is entirely missing from said Notice of Claim.

20. Annexed hereto as Exhibit S is a true and correct copy of portions of the November 16, 2020 Deposition Transcript of non-party witness Michael Duran in connection with the instant matter.

21. Annexed hereto as Exhibit T is a true and correct copy of the NYPD Arrest Report associated with do-defendant Daniel O'Connor's arrest, dated March 20, 2016, which sets forth, among other things, that O'Connor was arrested on March 20, 2016 in connection with the assault of a complaining victim, plaintiff Steven Cooper.

22. Annexed hereto as Exhibit U is a true and correct copy of the NYPD Complaint Report associated with co-defendant Daniel O'Connor's arrest, dated March 20, 2016, which sets forth, among other things, that O'Connor was arrested on March 20, 2016 in connection with the assault of a complaining victim, plaintiff Steven Cooper.

23. Annexed hereto as Exhibit V is a true and correct copy of an excerpt from Co-Defendant Lieutenant Thomas Jacobs's Memobook, which sets forth, among other things, that Jacobs was RDO and off-duty on March 20, 2016.

Dated: New York, New York
July 22, 2021

GEORGIA M. PESTANA
Acting Corporation Counsel of the City of New York
Attorney for Defendants City of New York, Sergeant Pearl Barnhart, Police Officer Nicholas Horun, Sergeant Adam Katrincic, Captain Desmond Morales, Sergeant Brendan Ryan, and Police Officer Jessica Schrell
100 Church Street
New York, New York 10007
(212) 356-3535

By: 

Christopher D. DeLuca
Senior Counsel
Special Federal Litigation

cc: Robert Howard Rickner, Esq. (Via Email)
Attorney for Plaintiff
Rickner PLLC
14 Wall Street
Suite 1603
New York, New York 10005
rob@ricknerllc.com

Yitzchok Kotkes, Esq. (Via Email)
Attorney for Plaintiff

Law Offices of Yitzchok Kotkes, P.C.
1225 Franklin Avenue
Suite 325
Garden City, New York 11530
ykotkes@gmail.com

Aaron M. Goldsmith, Esq. (Via Email)
Attorney for Co-Defendant O'Connor
225 Broadway
Suite 715
New York, New York 10007
aarongoldsmithlaw@gmail.com

James M. Moschella, Esq. (Via Email)
Attorney for Co-Defendant Jacobs
Karasyk & Moschella, LLP
233 Broadway
Suite 2340
New York, New York 10007
jmoschella@kmattorneys.com

17-CV-01517 (RPK) (RLM)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

STEVEN COOPER,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE LIEUTENANT THOMAS JACOBS, POLICE OFFICER JESSICA SCHRELL SHIELD NO. 26482, POLICE DEPARTMENT SERGEANT BRENDAN RYAN, POLICE OFFICER NICHOLAS HORUN, POLICE SERGEANT ADAM KATRINCIC, POLICE SERGEANT PEARL BARNHART, NYPD CAPTAIN DESMOND MORALES, DANIEL O'CONNOR, NEW YORK POLICE OFFICERS JOHN DOES 1-10 the identity of whom is presently unknown, in their individual and official capacities as New York City Police Officers,

Defendants.

**DECLARATION OF CHRISTOPHER D. DELUCA
IN SUPPORT OF DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

GEORGIA M. PESTANA
Acting Corporation Counsel of the City of New York
Attorney for Defendants
100 Church Street
New York, New York 10007
Of Counsel: Christopher D. DeLuca
Tel: (212) 356-3535